IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14694 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARATKUMAR JETHALAL PATEL

Versus

STATE OF GUJARAT AND OTHERS

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Appearance :
MR UMANG K CHOKSI for the Petitioner
MR DA DESAI, ASSISTANT GOVERNMENT PLEADER for the Respondents

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 23/08/2006

ORAL JUDGMENT

1. Power of Attorney Holder of Smt Anandiben Kiritkumar Patel – Shri Bharatkumar Jethalal Patel is before this Court being aggrieved by orders dated 31.08.2004 and 27.01.2006.

The authority has valued the land at Rs.10,02,200/- and has called upon the petitioner to pay the deficit stamp duty by order dated 31.08.2004 and by order dated 27.01.2006, the authority – respondent No.3 herein rejected the delay condonation application and the Reference under Section 32(A) of the Bombay Stamp Act, 1958.

2. The case of the petitioner is that he purchased the land in question by registered sale deed dated 29.01.1998. The order was passed on 31.08.2004, which was not received by the petitioner. He did not have any knowledge about the said order, until officers/personnel from the Revenue Department visited the place of the petitioner in the month of March, 2005. The petitioner immediately applied for certified copy and on receipt of the same on 20.03.2005, the present petition is filed.

Learned advocate for the petitioner submitted that even at the highest rate under the Jantri, which is Rs.5,60,000/-, his land does not value Rs.10,02,200/-. He submitted that the land of the petitioner bears survey number above 601 for which the rate prescribed under the Jantri of Rs.2,04,000/- which alone can applied to value the land of the petitioner.

3. The learned advocate for the petitioner submitted that all this can be represented before the authorities,

provided the petitioner gets an opportunity to do so. The learned advocate submitted that the authorities have passed order dated 31.08.2004, which is not warranted and is vitiated on the ground of non-observance of principles of natural justice. He requested that in the interest of justice, the orders passed by the authorities be quashed and set aside and the matter be remitted back to the authority for according an opportunity of hearing to the petitioner.

4. On the short ground of non-observance of principles of natural justice, the orders dated 31.08.2004 and 27.01.2006 are quashed and set aside. The matter is remanded to the authority – respondent No.3 (Deputy Collector (Stamp Duty) to consider the matter afresh and pass reasoned order after taking into consideration the submissions of the petitioner.

5. The petitioner may point out and place the decisions of this Court before the authority at the time of hearing of the matter.

Initially, the petitioner shall remain present before the authority on 13.09.2006 at 11.00 AM. It will be open to the authority to fix future schedule of hearing on that day. The petition is disposed of with the aforesaid directions. Rule is made absolute with no order as to costs. Direct service is permitted.

(RAVI R.TRIPATHI, J.)

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